

REMARKS

Claims 1-14 and 16-35 are pending. Claims 21 and 25 are amended herein. No new matter is added as a result of the claim amendments.

103 Rejections

According to the instant Office Action, Claims 1-14 and 16-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bindra, *electronic design* article dated November 6, 2000, "Programmable SoC Delivers a New Level of System Flexibility" (hereinafter, "Bindra").

Applicant respectfully agrees that Bindra does not address "automatically constructing source code," as admitted throughout the instant Office Action as well as in prior Office Actions.

In the instant Office Action, the Examiner's "Response to Arguments" appears to ignore the second declaration that was submitted on October 25, 2006, in response to the Office Action immediately preceding the instant Office Action (in the Examiner's "Response to Arguments," the focus appears to be only on the first declaration, which was submitted on August 15, 2005). The second declaration indicated that the PSoC Designer mentioned in Bindra was, as of the date of the Bindra reference, in development but was not reduced to practice, productized, in use or on sale. The second declaration also indicated that the PSoC Designer mentioned in Bindra, as of the date of the Bindra reference, did not include the embodiments of the present invention as claimed. The second declaration also indicated that the embodiments of the present invention as claimed are not included in the PSoC Designer mentioned in Bindra because

they were not yet implemented as of the date of the Bindra reference. Applicant respectfully submits that, in light of the information presented in the second declaration, the statements contained in the instant Office Action with regard to the Tutor reference, such as “Tutor acts as an admission, i.e., it tutors someone the things that have been already exited (sic)” and related arguments, are incorrectly based on the presumption that Tutor and Bindra describe the same tool. However, in light of the declarations previously submitted, Applicant respectfully submits that the Tutor reference does not qualify as prior art and that Bindra and Tutor do not describe the same tool. The Applicant respectfully requests that the Examiner consider and respond to the aforementioned second declaration, previously submitted.

Moreover, despite the information introduced in the second declaration, rejection of the claims based solely on the Bindra reference is maintained. In four previous Office Actions, spanning a period of over two years, a second reference (specifically, “PSoC Designer: Integrated Development Environment, Getting Started 25-Minute Tutorial” Revision 1.0 dated July 3, 2001; hereinafter, “Tutor”) was relied upon to teach the limitation admittedly not taught by Bindra. The Applicant has filed responses to each of the Office Actions, along with two Requests for Continued Examination and two declarations. Now, at this point in the prosecution of the instant application and after much effort and expense on the part of the Applicant, the Examiner has apparently concluded that a second reference is no longer needed and that the Bindra reference is now sufficient by itself. Given the weakness of the Bindra reference – evidenced by statements in each of the preceding Office Actions and further demonstrated by the steadfast reliance on Tutor until now – Applicant respectfully submits that at least a second

reference is needed in order to establish a *prima facie* case for rejecting the claims under 35 U.S.C. § 103(a). In other words, Applicant respectfully submits that, because a secondary reference has been cited in each and every Office Action up to now, admissions have effectively been made that the primary reference (Bindra) is lacking in some respect, that Bindra does not show or suggest all of the claim limitations, and that at least another reference is needed. Applicant respectfully requests that a reference showing or suggesting the limitations not shown by Bindra be provided if the rejection of the claims is to be maintained. The Applicant respectfully reiterates, in light of the declarations previously submitted, that the Tutor reference does not qualify as prior art and that Bindra and Tutor do not describe the same tool.

Furthermore, according to the instant Office Action, the limitation at issue "is an enablement of a virtual block which is known in the art as the programming code or the code in the user module." Applicant respectfully requests that a qualified reference supporting the basis for this conclusion be provided.

To summarize, Applicant respectfully submits that Bindra does not show or suggest "automatically constructing source code," specifically cited in independent Claim 1 and similarly recited in independent Claims 13, 17, 21, 25, 26 and 31. The Examiner appears to argue that this limitation already existed in the tool mentioned in the Bindra reference. However, the Examiner's argument is in direct contradiction to the information submitted in the second declaration mentioned above. The Examiner has not presented evidence in support of his argument and has not provided a reason why the claimed invention is not patentable in light of the second declaration.

In addition, the Applicant respectfully submits that information is being read into the Bindra reference that is not shown or suggested by that reference. The Applicant respectfully submits that the interpretation of Bindra being applied in the instant Office Action is strained and can be derived only through impermissible hindsight. Again, the Applicant respectfully reiterates that the Tutor reference does not qualify as prior art and that Bindra and Tutor do not describe the same tool.

Applicant respectfully submits that, as a result of any or all of deficiencies presented above, a *prima facie* case of obviousness has not been established.

Furthermore, independent Claim 21 recites "constructing an assembly code routine using said control parameter, wherein said assembly code routine is constructed from template assembly code by substituting information specific to said user module, information specific to said function and information specific to said control parameter for generic information in said template assembly code" while independent Claim 25 recites "constructing an assembly code routine using said control parameter, wherein said assembly code routine is constructed from template assembly code by substituting information specific to said user module, information specific to said function and information specific to said control parameter for generic information in said template assembly code." According to the instant Office Action, these claims are rejected using the same rationale used to reject Claim 13. However, Claims 21 and 25 include limitations different from and in addition to the limitations of Claim 13, and therefore a different rationale should be provided.

In summary, Applicant respectfully submits that the basis for rejecting independent Claims 1, 13, 17, 21, 25, 26 and 31 under 35 U.S.C. § 103(a) is traversed and that these claims are in condition for allowance. Claims 2-12, 14, 16, 18-20, 22-24, 27-30 and 32-35 depend from either Claim 1, 13, 17, 21, 25, 26 or 31 and recite additional limitations, and therefore Applicant respectfully submits that Claims 2-12, 14, 16, 18-20, 22-24, 27-30 and 32-35 are also in condition for allowance as depending on allowable base claims.

Conclusions

In light of the above remarks, reconsideration of the rejected claims is respectfully requested. Based on the arguments presented above, it is respectfully asserted that Claims 1-14 and 16-35 overcome the rejections of record and, therefore, allowance of these claims is solicited.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Date: 4/30/07

Respectfully submitted,

MURABITO HAO & BARNES LLP



William A. Zarbis
Reg. No. 46,120

Two North Market Street
Third Floor
San Jose, California 95113
(408) 938-9060